

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERNEST DAVIS, RAYMOND COPELAND JR., RAY
COPELAND SR., KOHAIN NATANY A. HALEVI, THOMAS L. TERRY, VALERIE CAMPBELL, OSCAR DAVIS JR.,
MARLENE PIEROT, ANGELO SQUITIERI, MARIA ELLIS, File No. 07-Civ. 9897 CLB
DAVIS WILLIAMS,

Plaintiffs,

-against-

UNITED STATES JUSTICE DEPARTMENT, FEDERAL
BUREAU OF INVESTIGATION, UNITED STATES
ATTORNEY'S OFFICE, UNITED STATES ATTORNEY'S
OFFICE OF THE SOUTHERN DISTRICT OF NEW YORK,
NEW YORK STATE BOARD OF ELECTIONS,
WESTCHESTER COUNTY BOARD OF ELECTIONS,
CLINTON YOUNG, JANET SNYDER, JOHN DOE, FEDERAL
BUREAU OF INVESTIGATION AGENTS 1-10,

Defendants.

-----X

REPLY MEMORANDUM OF LAW

McCARTHY FINGAR, LLP
11 Martine Avenue, 12th Floor
White Plains, New York 10606
(914) 946 – 3700

Submitted by: William S. Greenawalt

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVIS JR., MARLENE PIEROT, ANGELO SQUITIERI,
MARIA ELLIS, DAVIS WILLIAMS,

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FEDERAL BUREAU OF INVESTIGATION AGENTS 1-10,

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Plaintiff's April 14, 2008 Memorandum of Law does not counter, effectively or otherwise, the February 25, 2008 motion with the February 22, 2008 affidavit and the Memorandum of Law of Clinton I. Young, Jr. the Mayor of Mount Vernon, elected on November 6, 2007, and a defendant herein, to dismiss the Amended Complaint and for sanctions. That overwhelming victory was by a margin of 2,653 votes with over 62% head-to-head for Mr. Young to less than 38% for Ernest Davis, the former Mayor and a plaintiff herein.

The ranks of plaintiffs have been thinned by resignations. Lisa Copleand, Elvira Castillo, Barbara Perry, Dorothy Edna Bringer and Daryl Selsey, almost one-third ($\frac{1}{3}$) of the original plaintiffs, are no longer plaintiffs.

They have written Stephen Jackson, Esq. and/or the Court that they no longer wish to be plaintiffs, and the Court was granted their requests.

Plaintiffs' attorney persists in statements which not only lack support, but are contrary to the truth. For example, he says "a significant number of African American voters, including some plaintiffs, were in fact intimidated and dissuaded from exercising their right of franchise".

(p.2) There is no affidavit or other proof from any plaintiff, past or present, attesting that he or she did not vote. As pointed out in Mayor Young's February 25, 2008 Memorandum of Law (p. 2):

"The complaint and the amended complaint contain no allegation that the named plaintiffs, or any of them, did not vote in the November 6, 2007 general election. As set forth in the February 22, 2008 Affidavit of Clinton I. Young. [¶20, p. 5], according to records of the Board of Elections of Westchester county, they all voted. Hence, none of them is a proper plaintiff, and plaintiffs lack standing to bring this action. "

See, e.g., *Indian a Democratic Party v. Rokita*, 458 F. Supp. 2d 775, 811-812 (S.D. Ind. 2006). Any purported vote dilution claim is also unavailing because plaintiffs have not claimed any "injuries that can be established into mathematical certainty. "E.g., *Kardules v. City of Columbus*, 91 F3d 1335, 1349 (6th Cir. 1996). *Winpisinger v. Watson*, 628 F2d 133, 139 (D.C. Cir. 1980). Here, as there Mayor Young was not involved in conducting the election, and no casual link whatsoever has been shown; in fact, it has been convincingly denied, without contradiction.

Plaintiff's papers speculate improperly that events on October 11, 2007 may have had a substantial effect on the November 6, 2007 victory of Clinton Young. That is not plausible:

Clinton Young effectively won the general election when he won the Democratic Primary. It is appropriate for the Court to take judicial notice of the fact that in overwhelmingly heavily Democratic Mount Vernon, the Democratic Primary is the key contest. The winner of the Primary will appear on the Democratic line on Election Day, and almost to a certitude will be elected Mayor or Councilperson. The General Election is a foregone conclusion. Clinton Young won the hard-fought Democratic Primary on September 18, 2007 by a 52% - 48% margin.

The *Daily News* September 20, 2007 report on the Mount Vernon Mayoralty Primary stated, "winning the Democratic nomination nearly guarantees the election in the heavily Democratic city of nearly 70,000". That paper and *CBS News Radio* reported former Mayor Davis' statement on September 18, 2007: "If those numbers remain the same, my administration will be history".

CBS News Radio's September 19, 2007 evaluation was, "winning the Democratic nomination nearly guarantees the election in heavily Democratic Mount Vernon. Davis holds the Conservative and Independent party lines but said last week he would support Young if he lost the Democratic Primary." (See Exhibit E to the February 22, 2008 Declaration of Ross E. Morrison, Assistant United States Attorney, submitted with the Motion of the Federal Defendants to Dismiss the Complaint).

Prejudicial rhetoric abounds, but it is not sufficient where documentary or evidentiary support is required. For example, plaintiffs' Memorandum's states (p.3) that "plaintiffs believe that defendant Young, plaintiff's opposition in the subject mayoral race, and his political surrogates maintained inappropriate influence with the federal defendants in light of purported personal and political relationships with federal employees close to the investigation of the Mayor's office." This begins with the impenetrable and legally insufficient phrase, "Plaintiffs

believe,” and proceeds to “purported personal and political relationships”. There is no support for these flights of speculation in any affidavit. There is no identification of or content to the purported “personal relationships, “political relationships,” or “inappropriate influence” It is impermissibly and fatally vague. The complaint and amended complaint are not even verified.

Clinton Young has sworn in his February 22, 2008 affidavit (¶15) that:

I did not conspire with anyone or any organization to do anything concerning entry into then – Mayor Davis’ office or City Hall. I did not and do not know anyone in the Federal Bureau of Investigation, or the United States Department of Justice, or the United States Attorney’s Office, or the New York State Board of Elections. I did not communicate with any of these entities, or anyone in them or representing them, during the Mayoralty Campaign. Indeed, I have not done so to date.

Mayor Young also stated there (¶19):

The federal government had been investigating mismanagement and missing funds in Mount Vernon’s Urban Renewal Agency, and other mismanagement in Mount Vernon, long before I began my mayoral campaign in early 2007. I had nothing to do with, and no knowledge of, any of those investigations, except to read or learn about them after the fact.

Contrary to various statements of Mr. Jackson, the October 11, 2007 entry into City Hall was pursuant to a duly executed search warrant seeking documents “relating to the Department of Public Works and two carting companies”, and did not violate Mr. Davis’ or any person’s rights against unreasonable search and seizure. The February 22, 2008 Legal Memorandum of the Federal Defendants makes that clear.

Mr. Jackson’s original and amended complaints alleged ((¶17) that the “agents for defendant FBI” entered City Hall under the guise of investigating alleged improprieties in city

trash-hauling contracts”, and ((¶¶20, 21) that there was “no justification” supporting that decision. Events since that time have wholly disproved this allegation.

The Journal News, the paper of record for Westchester County, reported this in an article on March 19, 2008. That paper, in an April 2, 2008 article, also reported the arrest of a Mount Vernon Department of Public Works (“DPW”) supervisor charged with taking bribes to help A & D Carting bilk the city. Additionally, the supervisor was charged with paying another employee to sign-off on bloated A & D Carting invoices presented to him upon leaving the city storage yard with debris.

An April 3, 2008 article reported that a Mount Vernon DPW employee had pleaded guilty in the United States District Court in White Plains to signing off knowingly bogus A & D debris receipts charging Mount Vernon for more refuse removal than actually occurred. The article said he gave information leading to the arrest of the DPW supervisor on April 1, 2008.

On April 10, 2008, The Journal News reported that Maureen Walker, Mount Vernon City Comptroller, had known of the wrongdoing in the DPW and had helped the Federal Government, and had said that Mayor Davis had known of the bloated invoices.

The articles linked the arrests and indictments to the investigation and particularly to the DPW’s records and files obtained on October 11, 2007 from City Hall.

A former Mount Vernon Urban Renewal Agency Commissioner and a businessman have also been indicted in March 2008 in connection with no-bid contracts and loans of \$500,000 that were not repaid. (See newspaper articles of March 20 and 25, 2008).

All these articles are collectively Exhibit 1 to the accompanying Greenawalt Affidavit.

“The fruits of the raid” are manifest, to put it mildly. The fact that “to date”, Mayor Davis “has not been charged with any crime or offense” is not relevant. Key files and records were stored in City Hall, and they were obtained pursuant to search warrant.

Mr. Jackson’s Memorandum sections on sovereign immunity and “Bivens action”, including supposed “abuse of legal process and “illegal search and seizure,” are concerned with the Federal defendants (pp. 6-10). It appears the collusion section (p. 8) is also directed at the Federal defendants. Plaintiffs have presented no colorable evidence, indeed any evidence, that Mayor Young was involved in any “collaboration” with federal officials, or was orchestrating the overt raid: (p. 18); thus the broadside rhetoric concerning violation of the Voting Rights Act (p. 8) is only that.

Finally, in Point III at the end of the Memorandum, we find something concerning Mayor Young and the only other “private individual defendant” who, however, is never mentioned by name: Janet Snyder, the Republican candidate for Mayor.

There, language of the Memorandum is devoid of probative value: “Plaintiffs allege in their pleadings”; “plaintiffs contend:” “a private individual may be liable under §1983 if he conspired or entered joint action with a state actor;” “plaintiffs must show;” etc. Mayor Young’s affidavit denying any involvement in, or knowledge of, the October 11, 2007 entry, and any knowledge of the federal personnel, and Mr. Jackson’s total failure to produce a single fact or sworn statement to backup his unfounded action and allegations against Mayor Young, reflect an abysmal abuse of the legal process, and is sanctionable.

There is no merit to plaintiff’s lame closing plea for more time “to further amend the pleadings”, or more time to “establish a meeting of the minds between defendant Young and the

federal defendants to violate Plaintiff's right of franchise and civil rights." That time has passed; there was never any "there" there.

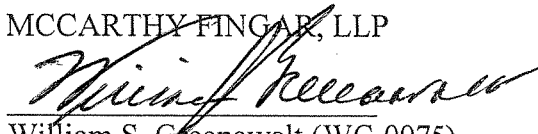
The Complaint Amended Complaint and Second Amended Complaint must "state a claim to relief that is plausible on its face", including factual allegations which "raise a right to relief above the speculative level". *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964-1965, 1974 (2007). The "complaint must allege facts that are not merely consistent with the conclusion that the defendant violated the law, but which actively and plausibly suggest that conclusion". *Port Dock & Stone corp. v. Oldcastle Northeast, Inc.*, ___ F. 3d ___ 2007 WL3071637 (2d Cir. October 23, 2007).

Plaintiffs here present no plausible allegations, indeed no factual allegations whatsoever, against Mayor Young. The cases cited by plaintiffs actually support Mayor Young.

CONCLUSION

For the foregoing reasons, and those in the accompanying affidavit with exhibits, and those in Mayor Young's February 25, 2008 Motion papers, and those submitted by the Federal defendants, Mayor Clinton I. Young, Jr. respectfully requests that this Court dismiss this frivolous action with prejudice, and with an award of attorney's fees and costs, and such other matters as the court deems just and proper.

Dated: White Plains, New York
May 1, 2008

MCCARTHY FINGAR, LLP
By: 
William S. Greenawalt (WG 0075)
Attorney for Defendant Clinton Young
11 Martine Avenue, 12th Floor
White Plains, New York 10606
(914) 946-3700

To: Stephen C. Jackson, Esq.
Attorney for Plaintiffs
350 Fifth Avenue, Suite 2310
New York, New York 10118
(212) 643-2394

Michael J. Garcia, Esq.
United States Attorney for the
Southern District of New York
86 Chambers Street
New York, NY 10007
Tel: (212) 637-2739/2822

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERNEST DAVIS, et al.,

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DEPARTMENT, et al.,

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ECF CASE

07 Civ. 9897(CLB)

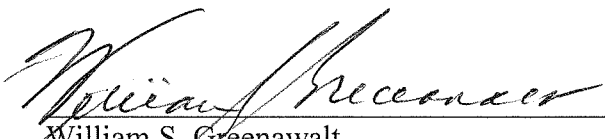
**AFFIDAVIT OF
WILLIAM S. GREENAWALT**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)


WILLIAM GREENAWALT, being duly sworn, deposes and says:

1. I am the attorney for defendant Clinton Young, Mayor of Mount Vernon, and a defendant in this action.

2. I make this affidavit to attach collectively as Exhibit A and submit true and correct copies of the following newspaper articles concerning results in whole or in part from the October 11, 2007 search pursuant to warrant, and other similar results, as a part of Mayor Young's Reply papers supporting his motion to dismiss the Amended Complaint.


William S. Greenawalt

Sworn to before me this
2nd day of May, 2008


Notary Public

MAUREEN T. COTTER
Notary Public, State of New York
No. 0776995
Qualified in Westchester County
Term Expires April 30, 2011

EXHIBIT A



March 19, 2008

Feds: Trash haulers bilked Mount Vernon of \$1.25 million

*Jorge Fitz-Gibbon and Jonathan Bandler
The Journal News*

MOUNT VERNON - Two trash haulers were indicted today on charges that they overbilled the city by \$1.25 million in garbage pickup costs, federal prosecutors announced.

Albert Tranquillo III, formerly of Armonk, and Michael Pizzolongo of Scarsdale allegedly had their company, A&D Carting, falsify invoices to exaggerate how much debris was removed from a city-owned storage yard.

"Indeed," the U.S. Attorney's Office said in a press release, "in 2002 - the first full year of the contract between A&D Carting and Mount Vernon - Mount Vernon paid companies controlled by Tranquillo \$385,000, or approximately four times what Mount Vernon paid for the removal of such waste the previous year."

The nine-page indictment, unsealed today, charges that the two men continued the scheme even after Tranquillo's companies were denied a carting license by the Westchester County Solid Waste Commission and A&D was sold to another company in 2003.

Tranquillo's trucks continued to cart refuse from the city until March, 2006, and he continued to overbill for the pickup, the indictment alleges.

The charges come after FBI agents executed a search warrant at Mount Vernon City Hall on Oct. 11, leaving with Department of Public Works files and other documents tied to the carting probe.

The raid, coming just weeks before the mayoral election, prompted cries of racism by supporters of then Mayor Ernest Davis.

They claimed the raid was timed to embarrass Davis in his bid for re-election - Davis had already been beaten by Clinton Young in the Democratic primary.

After he lost the election to Young in November, Davis supporters filed a federal civil rights lawsuit seeking to have the results overturned because the FBI raid was "politically and racially motivated" to undermine Davis.

Following the unsealing of the indictment today, Pizzolongo was arraigned in U.S. District Court in White Plains and released on \$200,000 bond.

Tranquillo is in federal prison in a separate case. Last year, he pleaded guilty to conspiracy to commit extortion in a Genovese-connected racketeering case and is serving five years.



April 2, 2008

Ex-Mt. Vernon Public Works supervisor arrested in FBI probe of trash scam

Jonathan Bandler
The Journal News

A former Mount Vernon Department of Public Works supervisor was arrested yesterday as part of the FBI probe into a trash-hauling scheme that cost the city \$1.25 million.

James Castaldo, 61, was accused of taking thousands of dollars in bribes to help officials of A&D Carting bill the city for far more construction and tree debris than it was actually hauling from a city storage yard. He was reportedly paid on regular occasions after a company employee would call to let him know the "pastries were ready" - code that an envelope of money would soon be left for him at a city business, according to an FBI complaint.

Castaldo, who has lived in Cortlandt, was arrested at his home in Cape Coral, Fla. He was released on bail following his arraignment on bribery and mail fraud charges in U.S. District Court in Fort Myers. Two company officials, Albert Tranquillo III and Michael Pizzolongo, were indicted in the case two weeks ago.

According to the complaint, Castaldo paid \$12,000 to an unidentified Department of Public Works employee, telling him to sign off on any invoices drivers from A&D Carting presented him when they pulled out of the yard with debris. The employee is cooperating with federal authorities and is expected to plead guilty to bribery, mail fraud and conspiracy charges, according to the complaint.

Tranquillo, known as "Allie Boy," is a nephew of reputed Genovese capo Pasquale "Patsy" Parrello, according to authorities, and he is already serving a five-year term in federal prison for unrelated racketeering charges involving the Genovese crime family.

In 2001, A&D Carting, Tranquillo's company, got a contract from the city to remove the debris from the yard. The following year, Tranquillo and his father were notified by the Westchester Solid Waste Commission that their carting license was rescinded. He was forced to sell the company to United Waste Services, but federal prosecutors contend that he continued using company trucks to pick up the debris from the city yard. Pizzolongo, a Scarsdale resident, was identified by federal authorities as a manager at A&D Carting.

In all, the city paid out \$2.4 million for the contract, \$1.25 million more than it should have. The fraud was never detected, even though the \$385,000 cost of the contract in 2002 was four times what the city paid the previous year. The annual costs kept escalating until the city paid A&D Carting \$856,000 in 2005.

Castaldo worked for the city for more than three decades before retiring in April 2005 as Public Works supervisor, the third-highest ranking position in the department. He could not be reached for comment last night.

The arrests in the case resulted from a lengthy investigation that included an Oct. 11 raid on City Hall by FBI agents seeking DPW records. Supporters of then-Mayor Ernest Davis, who was locked in a re-election battle he would ultimately lose to Clinton Young, criticized the timing of the raid as "political

assassination" three weeks before Election Day. Yesterday, Davis said he was disappointed by the accusations against Castaldo, whom he called a "knowledgeable, longtime employee."

"I worked very hard to bring the city back. I didn't do that for people to do this," Davis said. "If this is true, it is very, very disturbing to me to know people would think they could get away with that kind of activity."

Davis said he had questioned why the city was paying so much more each year for the waste removal but that he had been told the volume of the debris had increased.

Castaldo is the fifth person - and second former city official - to be arrested in recent weeks in a pair of unrelated federal investigations. On the same day Tranquillo and Pizzolongo were indicted, former city Planning Commissioner Constance "Gerrie" Post and businessman Wayne Charles were charged with conspiracy and mail fraud in a probe of the city's troubled Urban Renewal Agency. Federal prosecutors said the two had a "close personal and financial relationship" that included Post's helping Charles get more than \$1 million in no-bid city contracts and a \$250,000 Urban Renewal Agency mortgage for an apartment building that neither expected he would repay.

In the trash-hauling investigation, FBI agents checked with locations where A&D Carting dumped the city's waste to determine the extent of the fraud. In 2005, according to federal authorities, the company billed the city for 24,630 cubic yards of tree waste but removed only 3,270 cubic yards.

A company employee cooperating with the FBI told authorities that the DPW employee would initial far more invoices than should have been signed for the amount of debris that was removed. That employee claimed they would regularly relay the message to Castaldo that the "pastries were ready" and that one the Tranquillos would then leave with an envelope. The employee delivered the bribe money on one or two occasions, according to the complaint.

Another company employee told the FBI that they would get phone calls from Castaldo asking to meet with the Tranquillos, particularly after the company received a check from Mount Vernon, and that soon after the calls Castaldo would be told he could pick up a package at the unidentified city business.



April 3, 2008

Mount Vernon DPW worker pleads guilty in federal hauling investigation

Timothy O'Connor
The Journal News

A Mount Vernon Department of Public Works employee who took part in an alleged scheme that cost the city more than \$1 million pleaded guilty yesterday in federal court.

Richard Sharpe, 50, admitted that he signed off on bogus debris receipts that officials at A&D Carting allegedly used in a scheme to defraud the city by charging for more refuse than the company actually hauled away from a city storage lot. Sharpe has agreed to cooperate with federal authorities in their ongoing investigation of A&D Carting's contract with the city.

Information Sharpe gave to an FBI agent helped lead to the arrest by FBI agents Tuesday of former DPW Supervisor James Castaldo, 61, at his Cape Coral, Fla., home on charges of mail fraud and bribery.

Yesterday, Sharpe pleaded guilty in U.S. District Court in White Plains to mail fraud, bribery and conspiracy charges. The most serious charge, mail fraud, carries a maximum sentence of 20 years in prison. But Sharpe's cooperation will likely result in a much lesser sentence.

Sharpe has worked for the city for more than 25 years. His current position is listed as heavy machine operator at a salary of \$60,000 a year. He could not be reached for comment. Herbert Hadad, a spokesman for U.S. Attorney Michael Garcia, said the investigation is continuing and declined further comment.

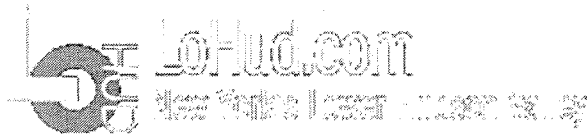
Sharpe's guilty plea came two weeks after the owner of A&D Carting, Albert "Allie Boy" Tranquillo III of Armonk, and another company official, Michael Pizzolongo of Scarsdale, were indicted in connection with the alleged scheme.

Tranquillo is the nephew of reputed Genovese crime family capo Pasquale "Patsy" Parrello, federal officials said. He is already serving a sentence of more than eight years for extortion after pleading guilty in an unrelated racketeering case that involved reputed leaders, members and associates of the Genovese family.

Sharpe told FBI agents that Castaldo paid him \$12,000 to sign off on any invoices A&D Carting drivers handed over when they left the yard with debris. Federal officials said the \$2.4 million the city wound up paying A&D Carting was more than double what it should have paid.

Yolanda Robinson, Mayor Clinton Young's chief of staff, said Sharpe has been out on disability for the last six months. She said the administration is instituting policies to ensure such fraud is not repeated. She said DPW Commissioner Terrence Horton will be responsible for signing off on all such expenditures in the future.

City officials will move for Sharpe's dismissal once his guilty plea is confirmed, Robinson said. Sharpe is scheduled to be sentenced July 7.



April 10, 2008

Mt. Vernon comptroller reveals she has been working with federal investigation

Jorge Fitz-Gibbon
The Journal News

MOUNT VERNON - City Comptroller Maureen Walker said her office is auditing three city departments for potential wrongdoing, adding she knew of irregularities in the Department of Public Works years before a federal indictment linked it to a mob-linked trash-hauling scheme.

Walker's announcements at a City Hall news conference yesterday came just one week after a former Mount Vernon public works supervisor was arrested in Florida, alleged to have a role in the trash-hauling case - and three weeks after the federal indictment.

Walker refused to say which departments are being audited, and she said her internal review of the public works operation was not made public earlier because "any premature action may have compromised any future investigation."

She said she did not return a 2006 campaign contribution from one of the indicted trash haulers for fear it would reveal the continuing probe of the scheme.

"Our concerns were documented, and several individuals were discreetly questioned by me," Walker said. "At all times, we were aware of the increasing cost for the service, for that particular service, and we were constantly monitoring and documenting the situation in anticipation of possible further action. A federal investigation subsequently took place, which has brought us to where we are currently."

Walker, flanked by Mayor Clinton Young and City Councilman Yuhanna Edwards, said she was making the announcements because of questions raised by recent media reports.

"Certainly, I'm looking forward to getting her report," Young said. "Understanding better that she was indeed cooperating with the federal investigation, I think, adds a little more validity as to why she has kept quiet up to this point."

Mount Vernon is the subject of two federal investigations targeting trash-hauling contracts and the city's beleaguered Urban Renewal Agency.

A 2006 audit by the U.S. Department of Housing and Urban Development revealed that the agency had overbilled the federal Section 8 program by \$1.7 million.

The investigation led to an indictment handed up March 19 charging former Planning Commissioner Constance "Gerrie" Post and city businessman Wayne Charles with mail fraud and conspiracy.

The same day, two carting company executives, Albert Tranquillo III and Michael Pizzolongo, were charged with fraud and conspiracy in the trash-hauling case.

They were alleged to have overbilled the city by \$1.25 million in fees for picking up tree trimmings and concrete from a city yard.

The U.S. Attorney's Office says the bills for the pickup ballooned between 2001 and 2006, and even quadrupled in 2002 - the first full year of the alleged scheme.

Walker maintained that the spike in the invoices raised an alarm in the Comptroller's Office.

"As we normally do with any cost, expenditure or revenue collection that appears to be out of line, we begin by asking questions of the personnel involved," she said. "The responses provided in this case were not convincing and aroused our suspicion."

Walker said then-Mayor Ernest Davis was apprised of the issue, and that former Public Works Commissioner James Finch was among those questioned.

"They were aware of the increasing costs and the bloated invoices," Walker said.

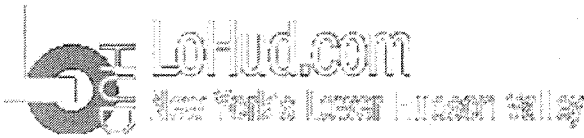
Asked why the irregularities were not revealed earlier, Walker said release of further details could jeopardize other probes.

The state Board of Election records show that Walker received an \$850 campaign contribution from Trancamp Equipment Corp., a company controlled by Tranquillo, in 2006.

She said the contribution came from a fundraiser she held at the time, an event attended by "many different groups."

Young, the mayor, said he was supportive of the Comptroller's Office in its current auditing of city departments. He said he considered Walker a "full partner."

"It was clear prior to my arrival here Jan. 1 that there was a need for greater internal controls," Young said yesterday. "And that's, again, why I created the Office of the Inspector General, adding another set of eyes to the day-to-day operation."



March 20, 2008

Stamford curbs authority of indicted ex-Mount Vernon planner

*Jonathan Bandler
The Journal News*

STAMFORD - The former Mount Vernon planning commissioner indicted on federal corruption charges was stripped this morning of some of her authority as executive director of the Stamford Urban Redevelopment Commission.

Constance "Gerrie" Post cannot handle public funds for the agency until the commission meets next week to decide her future, said Rachel Goldberg, the commission's general counsel.

Post informed agency officials this morning that she was indicted yesterday. They had been aware Post was under investigation since last fall, when The Journal News first reported that she was named in one of the subpoenas issued in the federal probe of the Mount Vernon Urban Renewal Agency.

Post and an associate, Wayne Charles, were indicted on mail fraud and conspiracy charges related to his business dealings with the city since the late 1990s. Post was accused of steering more than \$1 million in no-bid contracts to Charles and his companies and pushing forward a \$500,000 loan to Charles that he never repaid. The indictment also accuses her of receiving \$30,000 from Charles and never sharing with city or federal officials the "close personal and financial relationship" she had with him.

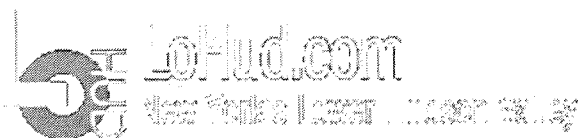
The 58-year-old Mount Vernon resident answered the phone at the agency's office in the Stamford Government Center this morning but declined to comment on the indictment or her status in that city.

The commission prepares and considers plans for urban renewal projects in Stamford. It is independent from city government although its five members are appointed by the mayor. The executive aide to Mayor Dannel Malloy said initially that the mayor would not comment about Post because she is not a city employee but later said he would issue a press release this afternoon.

Payments by the agency require two signatures and until now Post's could be one of those, Goldberg said.

James Nixon, the commission's vice chairman, declined to comment on the indictment, adding that he had not seen it and was unaware of the details. He said the commission had not had any problems with Post's performance in Stamford.

Check back for updates on LoHud.com and read more about this story tomorrow in The Journal News and at Lohud.com.



March 25, 2008

Mount Vernon businessman denies ducking mortgage payments to city

*Jorge Fitz-Gibbon and Jonathan Bandler
The Journal News*

MOUNT VERNON - A businessman charged with fraud in a federal indictment didn't duck payments on a \$250,000 mortgage loan from the city - he just wasn't sent the bill, his lawyer said yesterday.

Attorney Lewis Alperin said Mount Vernon entrepreneur Wayne Charles paid the only five invoices he was sent for the controversial 2003 loan from the city Urban Renewal Agency, but he was not billed before or since.

"It's not fraud," Alperin said yesterday. "It's incompetence in the city. This might be the worst-run city that way. To me, it's incredibly amazing that today, as we speak, he hasn't been billed."

The loan is central to the charges against Charles, 55, who was named in a federal indictment unsealed last week, along with former city Planning Commissioner Constance "Gerrie" Post.

The indictment alleged that Charles and Post, 58, had a "close personal and financial relationship" that included steering \$1 million in no-bid city contracts to Charles and his companies.

The indictments are part of a continuing probe of the Urban Renewal Agency, which Post headed until she left the city in January of 2006 - one month before the U.S. Department of Housing and Urban Development found that the agency had overbilled the government by \$1.7 million.

The indictments allege that Post pushed through a \$500,000 loan for Charles to renovate an apartment building he owned on East Third Street. In 2003, she marked the loan "satisfied," allowing Charles to get the \$250,000 mortgage that he has stopped paying.

The loan was made to one of Charles' companies, The Charles Group Inc., records show.

But prosecutors maintain that the loan wasn't even recorded by the agency until after agents questioned Post and Charles.

According to documents obtained by The Journal News through a state Freedom of Information Law request, Charles wrote to the agency between Sept. 1, 2005, and Jan. 8, 2006, complaining that he hadn't been sent bills.

Three of the letters were addressed to the Urban Renewal Agency's loan manager, Nahshon Halevi, who is the son of embattled city Democratic Chairwoman Serapher Conn-Halevi.

"Per our recent conversations regarding the mortgage loan to the Charles Group, please be advised that we have never received bills, invoices or any other notice that payment on the outstanding debt was due and payable," Charles wrote in a letter to Halevi on Sept. 1, 2005.

"And, as you are aware, in an effort to pay this debt, we previously sent correspondence to your office

to request monthly bills, to no avail," the letter said.

Gregory Young, a lawyer for the Urban Renewal Agency, acknowledged yesterday that the invoices were not sent to Charles.

But Young said it did not excuse Charles' failure to pay.

"If you don't get a bill for your mortgage, does that mean you don't owe it?" he said. "He signed documents saying he'd pay it."

Urban Renewal Agency records show that Charles made only five payments between Sept. 27, 2005, and Feb. 1, 2006, for about \$7,400 of the total amount.

In a follow-up letter to Halevi, dated Oct. 6, 2005, Charles thanked him for the invoice that was finally sent the prior month.

But he questioned Halevi's payment schedule, which noted that the first payment had been due in September 2003, not two years later, as Charles claimed.

In the most recent letter obtained by The Journal News, dated Jan. 8, 2006, Charles wrote to Post directly, saying that he "was finally billed for my rehab loan."

He went on to complain that he was also billed for interest on the loan dating to September of 2003, when the loan was approved.

"I am requesting to speak with you or the person in charge of finance so that we can make the necessary corrections, which I am sure has been done previously on other projects," Charles wrote.

Post left the city that month after 15 years as planning commissioner and head of the Urban Renewal Agency. She now works for the city of Stamford, Conn., but was suspended from that post following release of the indictment.

Kenneth Saltzman, the attorney representing Post, declined to comment yesterday.

Halevi declined to comment.

Halevi, 34, worked for the city for eight years, and was the loan manager for rehabilitation and rental loans in the Urban Renewal Agency until leaving in 2006.

After leaving the city, he worked for Westchester County after it took over the city's troubled Section 8 program.

He worked as an eligibility examiner with the county, but he left that post in December because he did not score high enough on Civil Service exams to remain.

The indictments in the Urban Renewal probe followed months of federal inquiries at City Hall.

The U.S. Attorneys Office served several subpoenas on the city since March of 2007. Those included requests for records tied to Post, Charles, his various companies and records tied to former Mayor Ernest Davis.

Davis said last week that he knew of no wrongdoing in his administration. He said he was interviewed by federal agents in the case last year and had retained an attorney, whom he would not identify.

Alperin, Charles' lawyer, denied the charges against his client yesterday, saying the city simply didn't have its act together.

"To this day they haven't billed him," he said.

But Alperin would not comment on other allegations, including that Charles ran a computer services company that billed the city for more than \$1 million in services through contract extensions.

Both Post and Charles are to be arraigned tomorrow in U.S. District Court in White Plains.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ERNEST DAVIS, RAYMOND COPELAND JR., RAY
COPELAND SR., KOHAIN NATANY A. HALEVI,
THOMAS L. TERRY, VALERIE CAMPBELL, OSCAR
DAVIS JR., MARLENE PIEROT, ANGELO SQUITIERI,
MARIA ELLIS, DAVIS WILLIAMS,

07-Civ. 9897 CLB

AFFIDAVIT OF SERVICE

Plaintiffs,

-against-

UNITED STATES JUSTICE DEPARTMENT, FEDERAL
BUREAU OF INVESTIGATION, UNITED STATES
ATTORNEY'S OFFICE, UNITED STATES ATTORNEY'S
OFFICE OF THE SOUTHERN DISTRICT OF NEW YORK,
NEW YORK STATE BOARD OF ELECTIONS,
WESTCHESTER COUNTY BOARD OF ELECTIONS,
CLINTON YOUNG, JANET SNYDER, JOHN DOE,
FEDERAL BUREAU OF INVESTIGATION AGENTS 1-10,

Defendants.

-----X
STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

GILLIAN MORRIS, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside in Peekskill, New York.

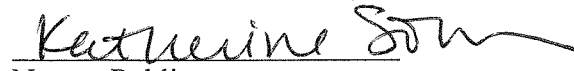
On May 2, 2008 I served a true copy of the annexed **REPLY MEMORANDUM OF LAW**, by facsimile transmission, to the following persons at the last known facsimile numbers set forth after their names:

Stephen C. Jackson, Esq.
Attorney for Plaintiffs
350 Fifth Avenue, Suite 2310
New York, New York 10118
(212) 643-2394

Michael J. Garcia, Esq.
United States Attorney for the
Southern District of New York
86 Chambers Street
New York, NY 10007
Tel: (212) 637-2739/2822


GILLIAN MORRIS

Sworn to before me on this
5th day of May, 2008


Notary Public

KATHERINE SOHR
NOTARY PUBLIC, State of New York
No 01-6066985
Qualified in Westchester County
Commission Expires December 3, 2010

January 18, 2010